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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,328	10/16/2001	Jason Lango	5693P116	4985

48102 7590 11/17/2006

NETWORK APPLIANCE/BLAKELY  
12400 WILSHIRE BLVD  
SEVENTH FLOOR  
LOS ANGELES, CA 90025-1030

EXAMINER

BILGRAMI, ASGHAR H

ART UNIT PAPER NUMBER

2143

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/981,328

Applicant(s)

LANGO ET AL.

Examiner

Asghar Bilgrami

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 03/02/06, 04/14/05, 04/26/05, 03/23/05,
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 6, 8-14 & 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Srikantan et al (U.S. Pub No 2002/005612 A1).

3. As per claims 1, 6, 9, 13, 16 & 20 Srikantan disclosed a method for reducing peak output traffic bursts in a processing system where a first packet of data is scheduled to be delivered to more than one downstream client system substantially simultaneously, the method comprising: modifying a specified packet delivery time of the first packet of data (partagraph.26, lines 1-4), for delivery of the first packet of data to a first downstream client system, by pseudo-randomly selecting a first delay value and adding the first delay value to the specified packet delivery time of the first packet data; and modifying the specified packet delivery time of the first packet of data for delivery of the first packet of data to a second downstream client system, by pseudo-randomly selecting specified packet delivery time of second first packet of data. Although Srikantan did not explicitly disclose modifying the media data packet's delivery time for first and second client respectively so that the media data packet from a source

reaches the first and second client at slightly different times (page.3, paragraphs.36 & page.4, paragraphs.46 & 53). However Srikantan disclosed the media frames (packets) of a live or pre-recorded event from a single source being simultaneously streamed (multiple streams) in a real-time to multiple users in a specified order within a certain period of time (i.e. time interval T1, T2 etc) {paragraphs. 25 & 26(lines 1-8) & paragraphs 55 & 56}. Therefore in order for the packets of a single live or pre-recorded transmission to be delivered to multiple clients as described by Srikantan time delay techniques are utilized (paragraph, 8 & paragraph, 55 "different time indices (time intervals) for different clients"). At the time the invention was made it would have obvious to one in the ordinary skill in the art to understand that the above-disclosed method by Srikantan involves modifying the media data packet's (frame) delivery time belonging to single media source (live or pre-recorded event) in order to accommodate simultaneous real-time transmission to multiple clients.

4. As per claims 2, 19 & 21 Srikantan disclosed the method of claim 1 wherein pseudo-randomly selecting the first delay value comprises pseudo-randomly selecting the first delay value from within a specified time range (Page.1, Paragraph.8, page.2, paragraph.26, page.3, paragraphs.36 & page.4, paragraphs.46 & 53).

5. As per claims 3 & 11 Srikantan disclosed the method of claim 10 wherein the first client delay is pseudo-randomly selected from the range: 0 to approximately 500 milliseconds (page.4, paragraph.40, lines 1-10).

6. As per claims 5, 8 & 12 Srikantan disclosed the method of claim 1 further comprising: receiving a data file from the upstream server, the data file including a payload portion of the first streaming media data packet and a payload portion of the second streaming media data packet (page.2, paragraph.30); and storing the data file in a storage within the streaming media cache (page.6, paragraph.75).

7. As per claims 10 & 14 Srikantan disclosed the computer system of claim 9 wherein the second thread is configured to form the first delayed first data packet in response to the first client delay by adding the first client delay to the first delivery time (Page.1, Paragraph.8, page.2, paragraph.26, page.3, paragraphs.36 & page.4, paragraphs.46 & 53).

### ***Response to Arguments***

8. Applicant's arguments filed 09/19/2005 have been fully considered but they are not persuasive.

9. When reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would

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have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art to complement that is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977).

10. Applicant argued that Srikantan does not explicitly disclose modifying data packet's delivery time for the first and second packet intended for multiple clients.

11. As to applicant's applicants argument Srikantan on paragraphs 55 & 56 (figure 4) discloses serving streams of media which is either live or pre-recorded from one track to multiple clients and further states that the same media is streamed to each client, but with different timing. That is, different client streams may, at any given time, be streaming media from different time indices within the media track. Importantly Srikantan on paragraph 26 also states that the delivery of each frame or other unit of media must be performed in a specified order and with in the certain period of time to

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maintain Quality of Service at an acceptable level (I.E to avoid congestion as a result of all streams being delivered/transmitted at the same time which the applicant describes as "burst traffic").

12. For the same reasons stated above, claim 16 is also not patentable.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on 9-5.

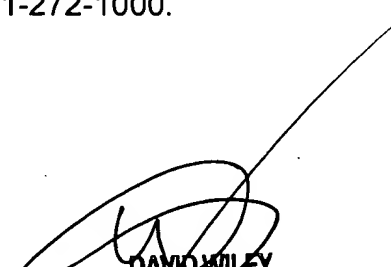
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3924. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



AB



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100